

REMARKS

I. Introduction

With the cancellation herein without prejudice of claims 12, 19, and 22, claims 11, 13 to 18, 20, 21, 23, and 24 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicants note with appreciation the acknowledgment of the claim for foreign priority and the acknowledgment that all certified copies of the priority documents have been received.

II. Objections to Claims 20 and 21

Claims 20 and 21 were objected to for informalities. Claims 20 and 21 have been amended herein without prejudice in self-explanatory manner, thereby obviating the present objections. No new matter has been added.

In view of all of the foregoing, withdrawal of the objections is respectfully requested.

III. Rejection of Claims 11 to 24 Under 35 U.S.C. § 112, Second Paragraph

Claims 11 to 24 were rejected under 35 U.S.C. § 112, second paragraph, as to the definiteness requirement. It is respectfully submitted that claims 11 to 24 are definite for at least the following reasons.

Regarding claims 11 and 18, claims 11 and 18 have been amended herein without prejudice to recite “a second motion variable,” as suggested by the Office Action, thereby obviating the present rejection.

Regarding claims 16, 17, 23, and 24, it is respectfully submitted that one of ordinary skill in the art would understand that a “pattern-recognition method” may be used to recognize patterns in the motion variables in order to ascertain an ignition signal, as described in the Specification, e.g., at page 24, lines 4 to 26.

Regarding claim 21, it is respectfully submitted that one of ordinary skill in the art would understand that an “age” of motion variables and time averages may describe the time, e.g., recent or older, within relevant time intervals during which motion variables and time averages were sampled, as described in the Specification, e.g., at page 4, lines 6 to 17.

Regarding claims 22, claim 22 has been canceled herein without prejudice, thereby rendering moot the present rejection with respect to claim 22. Claim 18 has been amended to include the features of canceled claim 22, which features have been amended in self-explanatory manner, as described in the specification, e.g., at page 22, line 13 to page 24, line 2; and Figures 11 to 15.

Accordingly, it is respectfully submitted that the present claims sufficiently “set forth and circumscribe a particular subject matter with a reasonable degree of clarity and precision,” which is all that is required under 35 U.S.C. § 112, second paragraph.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

IV. Rejection of Claims 11 to 14, and 18 to 22 Under 35 U.S.C. § 102(b)

Claims 11 to 14, and 18 to 22 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent Application Publication No. 2002/0147533 (“Foo ’533”). As an initial matter, claims 12, 19, and 22 have been canceled herein without prejudice, thereby rendering moot the present rejection with respect to claims 12, 19, and 22. It is respectfully submitted that Foo ’533 does not anticipate the present claims for at least the following reasons.

To anticipate a claim, each and every element as set forth in the claim must be found in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). That is, the prior art must describe the elements arranged as required by the claims. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). In other words, to be anticipatory, a single prior art reference must show all of the limitations of the claims arranged or combined in the same way as recited in the claims. Net Moneyin, Inc. v. Verisign, Inc., 545 F.3d 1359 (Fed. Cir. 2008).

Claim 11 relates to a motor vehicle, including, *inter alia*, the features of at least one first crash sensor, at least one second crash sensor, an occupant protection device controllable via an ignition signal, a control unit adapted to ascertain the ignition signal, at least one first triggering relationship, and at least one

second triggering relationship, in which at least one of (a) the first triggering relationship and (b) the second triggering relationship is generated as a function of at least one of (a) the measured motion variables and (b) their time averages over one of (a) the first time interval and (b) the first time interval and the second time interval of a situation, for which a setpoint triggering time of the occupant protection device is known, but *one of (a) the measured motion variables and (b) their time averages over one of (a) the first time interval and (b) the at least first time interval and the second time interval is disregarded in a training-suppression time interval one of (a) immediately prior to the setpoint triggering time of the occupant protection device or (b) immediately after the setpoint triggering time of the occupant protection device during the generation of one of (a) the first triggering relationship and (b) the second triggering relationship.*

Foo '533 does not disclose, or even suggest, all of the features included in claim 11. The Office Action at page 5 refers to paragraph 61 of Foo '533 as assertedly disclosing the above-recited features of claim 11. In this regard, the Office Action states that motion variable A_MA_CCU_1Y of Foo '533 is disregarded in a training-suppression time interval. However, the moving average acceleration value A_MA_CCU_1Y must be known and measured in order to compare to this value to a threshold 268, as specifically stated in paragraph 61 of Foo '533. Thus, the value A_MA_CCU_1Y plainly cannot be disregarded for proper function of the system of Foo '533. Moreover, nowhere does Foo '533 disclose a training-suppression time interval one of immediately prior to and immediately after the setpoint triggering time. Therefore, Foo '533 does not disclose, or even suggest, the features that *one of (a) the measured motion variables and (b) their time averages over one of (a) the first time interval and (b) the at least first time interval and the second time interval is disregarded in a training-suppression time interval one of (a) immediately prior to the setpoint triggering time of the occupant protection device or (b) immediately after the setpoint triggering time of the occupant protection device during the generation of one of (a) the first triggering relationship and (b) the second triggering relationship.*

Accordingly, Foo '533 does not disclose, or even suggest, all of the features included in claim 11. As such, it is respectfully submitted that Foo '533 does not anticipate claim 11.

As for claims 13 and 14, which depend from claim 11 and therefore include all of the features included in claim 11, it is respectfully submitted that Foo '533 does not anticipate these dependent claims for at least the same reasons more fully set forth above.

Claim 18 includes features analogous to those included in claim 11. As such, it is respectfully submitted that claim 18, and its dependent claims 20 and 21, are allowable for at least the same reasons provided above.

In view of all the foregoing, withdrawal of this rejection is respectfully requested.

V. Rejection of Claims 11 to 24 Under 35 U.S.C. § 102(b)

Claims 11 to 24 were rejected under 35 U.S.C. § 102(b) as anticipated by International Patent Publication No. WO 03/013911 ("Miyata et al.")¹. As an initial matter, claims 12, 19, and 22 have been canceled herein without prejudice, thereby rendering moot the present rejection with respect to claims 12, 19, and 22. It is respectfully submitted that Miyata et al. does not anticipate the present claims for at least the following reasons.

Miyata et al. does not disclose, or even suggest, all of the features included in claim 11. The Office Action at page 8 refers to paragraphs 25, and 43 to 52 of Miyata et al. as assertedly disclosing the above-recited features of claim 11. In this regard, the Office Action apparently states that measured variables GF, GSL, and GSR of Miyata et al. are disregarded in a training-suppression time interval. However, the measured variables GF, GSL, and GSR must be known and measured in order to compare to these values to the threshold values of High Map and Low Map, as specifically stated in paragraphs 43 to 46 of Miyata et al. Thus, the values GF, GSL, and GSR plainly cannot be disregarded for proper function of the system of Miyata et al. Moreover, nowhere does Miyata et al. disclose a training-suppression time interval one of immediately prior to and immediately after the setpoint triggering time. Therefore, Miyata et al. does not disclose, or even suggest, the features that *one of (a) the measured motion variables and (b) their time averages over one of (a) the first time interval and (b) the at least first time interval*

¹ Citations to particular paragraphs of Miyata et al. refer to U.S. Patent Application Publication No. 2004/0243294.

and the second time interval is disregarded in a training-suppression time interval one of (a) immediately prior to the setpoint triggering time of the occupant protection device or (b) immediately after the setpoint triggering time of the occupant protection device during the generation of one of (a) the first triggering relationship and (b) the second triggering relationship.

Accordingly, Miyata et al. does not disclose, or even suggest, all of the features included in claim 11. As such, it is respectfully submitted that Miyata et al. does not anticipate claim 11.

As for claims 13 to 17, which ultimately depend from claim 11 and therefore include all of the features included in claim 11, it is respectfully submitted that Miyata et al. does not anticipate these dependent claims for at least the same reasons more fully set forth above.

Claim 18 includes features analogous to those included in claim 11. As such, it is respectfully submitted that claim 18, and its dependent claims 20, 21, 23, and 24, are allowable for at least the same reasons provided above.

In view of all the foregoing, withdrawal of this rejection is respectfully requested.

VI. Rejection of Claim 15 Under 35 U.S.C. § 103(a)

Claim 15 was rejected under 35 U.S.C. § 103(a) as unpatentable over Foo '533. It is respectfully submitted that Foo '533 does not render unpatentable the present claim for at least the following reasons.

Claim 15 ultimately depends from claim 11. As more fully set forth above, Foo '533 does not disclose, or even suggest, all of the features included in claim 11, from which claim 15 ultimately depends. Accordingly, it is respectfully submitted that Foo '533 does not render unpatentable claim 15, which ultimately depends from claim 11.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

VII. Rejection of Claims 16, 17, 23, and 24 Under 35 U.S.C. § 103(a)

Claims 16, 17, 23, and 24 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Foo '533 and U.S. Patent No. 6,186,539 ("Foo

'539"). It is respectfully submitted that the combination of Foo '533 and Foo '539 does not render unpatentable the present claims for at least the following reasons.

Claims 16 and 17 depend from claim 11, and claims 23 and 24 depend from claim 18. As more fully set forth above, Foo '533 does not disclose, or even suggest, all of the features included in claims 11 and 18, from which claims 16, 17, 23, and 24 depend. Foo '539 does not cure the critical deficiencies noted above with respect to Foo '533.

Accordingly, it is respectfully submitted that the combination of Foo '533 and Foo '539 does not disclose, or even suggest, all of the features included in claims 11 and 18, from which claims 16, 17, 23, and 24 depend. As such, it is respectfully submitted that the combination of Foo '533 and Foo '539 does not render unpatentable claims 16, 17, 23, and 24, which depend from claims 11 and 18.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

VIII. Fees

The Director is authorized to charge any and all fees that may be required in connection with this paper or this application to the deposit account of Kenyon & Kenyon LLP, Deposit Account No. 11-0600.

IX. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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